

2007 DRAFTING REQUEST

Bill

Received: **10/31/2006**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **Joyce**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact: **Mark Patronsky**

Addl. Drafters: **pkahler**

Subject: **Local Gov't - misc**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Albers@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Drainage district landowner must notify potential buyer that land is in a drainage district.

Instructions:

See Attached. (Request key: Drainage distr. #2)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 11/01/2006 pkahler 11/02/2006	jdye 11/03/2006		_____ _____ _____ _____			S&L
/1			sherritz 11/03/2006	_____ _____	lparisi 11/03/2006	sbasford 01/31/2007	

FE Sent For: @ intra
2-21-2007

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1/?	mshovers	11/3 jld	sh 11/3	sh/mr 11/3			
11 NWS	11/11/06						

FE Sent For:

<END>

Shovers, Marc

From: Waldrop, Joyce
Sent: Monday, October 30, 2006 2:12 PM
To: Shovers, Marc
Cc: Patronskey, Mark
Subject: Drafting Request Drainage district #2

Marc,

Would you please draft a proposal that requires (within Chapter 88) any owner of property within a drainage district when selling their property that is within a drain, to give notice to a buyer potential purchaser. Affected property owners would be required to inform the purchaser of that specific property/acreage located within a drainage district, and thus subject to assessments for ongoing maintenance of the drains and to orders for improvements by the drain board.

If you have any questions please contact me or Mark Patronskey.

Thanks,

Joyce
Chief of Staff/Committee Clerk
jwaldrop@legis.state.wi.us

Office of Representative Sheryl Albers
Ph. 608/266-8531
Fax 608/282-3650

RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: MES) (Date: 11 / 1 / 06)



☐ Please transfer ^{a copy of} the drafting file for
2005 LRB - 4405 to the drafting file
for 2007 LRB - 0627

☞ The final version of the 2005 draft and the final Request Sheet will copied on yellow paper, and returned to the original 2005 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

☞ For research purposes, because the 2005 draft was incorporated into a 2007 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the 2007 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

--OR--

☐ Please copy the drafting file for
2007 LRB ^(include the version) and place it in the
drafting file for 2007 LRB

☞ For research purposes, because the original 2007 draft was incorporated into another 2007 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the new 2007 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

☞ The original drafting file will then returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

-0627/1

RMNR

2007 2005 BILL

J-note

regm

1 AN ACT *to amend* 66.1001 (2) (g); and *to create* 59.69 (5) (g), 60.61 (4) (f), 62.23

2 (7) (d) 5., 62.23 (7) (d) 6., 88.41 (5) and 88.95 of the statutes; **relating to:**

3 ~~requiring local governmental units to consider relationships with drainage~~

4 ~~districts in the preparation of comprehensive plans, requiring local~~

5 ~~governments to provide notice to drainage districts regarding proposals that~~

6 ~~affect drainage districts, and requiring sellers of real property to disclose the~~

7 ~~location of property within drainage districts.~~

located in a drainage district

Analysis by the Legislative Reference Bureau

~~Under the current law commonly known as the "Smart Growth" statute, if a local governmental unit (city, village, town, county, or regional planning commission) creates a comprehensive plan (a development plan or a master plan) or amends an existing comprehensive plan, the plan must contain certain planning elements. The required planning elements include the following: housing; transportation; utilities and community facilities; agricultural, natural, and cultural resources; economic development; land use; and intergovernmental cooperation.~~

Beginning on January 1, 2010, under current law, certain actions of a local governmental unit that affect land use must be consistent with that local governmental unit's comprehensive plan. The actions to which this requirement applies are official mapping, local subdivision regulation, and zoning ordinances,

BILL

including zoning of shorelands or wetlands in shorelands. Also beginning on January 1, 2010, under current law, if a local governmental unit engages in any of these specified actions, the comprehensive plan must contain at least all of the required planning elements.

Current law prohibits any comprehensive plan or amendment to a comprehensive plan from taking effect unless a number of conditions are met, such as, the local governmental unit must enact an ordinance or adopt a resolution that contains all of the required elements, and the local governmental unit must hold at least one public hearing at which the proposed ordinance or resolution is discussed.

Currently, the intergovernmental cooperation element must contain a compilation of objectives, policies, goals, maps, and programs for joint planning and decision making with other jurisdictions, including school districts, for siting and building public facilities and sharing public services. Under this bill, the intergovernmental cooperation element adds drainage districts as a jurisdiction with which a local governmental unit must engage. The bill also requires that under this element, a local governmental unit must analyze its relationship with a drainage district, and must consider the maps and plans of any military base with which it shares common territory.

This bill also requires that before a political subdivision (any city, village, town, or county) or any zoning entity of a political subdivision may take any action that would allow development in a drainage district, or affect the amount of water that a drainage district would have to accommodate, the political subdivision or zoning entity would have to send written notice to the drainage district. The written notice must describe the proposed action, and the time and date of any public hearing at which the proposed action will be discussed. The bill also allows the drainage district board to request a delay in the hearing so that the drainage board may obtain an engineering report that analyzes the effect of the proposed action.

Under current law, with certain exceptions, owners selling residential real property must give prospective buyers a form, known as a real estate condition report, on which the owner discloses certain conditions of the real property of which the owner is aware. The bill requires an owner to disclose whether the real property is located within a drainage district in a separate written notification that advises a potential buyer or transferee that the land is in a drainage district and subject to assessments for maintenance of the drains. If a transferor does not provide a prospective buyer with the separate notice within ten days after an offer to purchase is accepted, or within two days after receiving the separate notice, the prospective buyer may rescind the contract without penalty or loss of earnest money. When issuing an assessment, the bill requires a drainage board to remind the person receiving the assessment of the notification requirement that is created in this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

BILL

1 **SECTION 1.** 59.69 (5) (g) of the statutes is created to read:

2 59.69 (5) (g) 1. Before the board or the county zoning agency may take any
3 action under this subsection which would allow the development of any structure
4 that either would be located within the boundaries of a drainage district or would
5 likely increase the amount of water that the main drain of a drainage district would
6 have to accommodate, the board or zoning agency shall send written notice to the
7 secretary of the drainage district's board.

8 2. The notice described under subd. 1. shall describe the proposed action and
9 the time and date of any public hearing at which the proposal is on the agenda. After
10 receipt of the notice, the drainage board may request that the hearing be delayed to
11 enable the drainage board to obtain an engineering analysis to analyze the effect of
12 the proposed action on the drainage district. The drainage district may submit the
13 engineering analysis to the county board or to the county zoning agency.

14 **SECTION 2.** 60.61 (4) (f) of the statutes is created to read:

15 60.61 (4) (f) 1. Before the town board or the town zoning committee may take
16 any action under this subsection which would allow the development of any structure
17 that either would be located within the boundaries of a drainage district or would
18 likely increase the amount of water that the main drain of a drainage district would
19 have to accommodate, the board or zoning committee shall send written notice to the
20 secretary of the drainage district's board.

21 2. The notice described under subd. 1. shall describe the proposed action and
22 the time and date of any public hearing at which the proposal is on the agenda. After
23 receipt of the notice, the drainage board may request that the hearing be delayed to
24 enable the drainage board to obtain an engineering analysis to analyze the effect of

BILL

1 the proposed action on the drainage district. The drainage district may submit the
2 engineering analysis to the town board or to the town zoning committee.

3 **SECTION 3.** 62.23 (7) (d) 5. of the statutes is created to read:

4 62.23 (7) (d) 5. Before the city council, plan commission, or plan committee may
5 take any action under this paragraph which would allow the development of any
6 structure that either would be located within the boundaries of a drainage district
7 or would likely increase the amount of water that the main drain of a drainage
8 district would have to accommodate, the city council, plan commission, or plan
9 committee shall send written notice to the secretary of the drainage district's board.

10 **SECTION 4.** 62.23 (7) (d) 6. of the statutes is created to read:

11 62.23 (7) (d) 6. The notice described under subd. 5. shall describe the proposed
12 action and the time and date of any public hearing at which the proposal is on the
13 agenda. After receipt of the notice, the drainage board may request that the hearing
14 be delayed to enable the drainage board to obtain an engineering analysis to analyze
15 the effect of the proposed action on the drainage district. The drainage district may
16 submit the engineering analysis to the city council, plan commission, or plan
17 committee.

18 **SECTION 5.** 66.1001 (2) (g) of the statutes, as affected by 2005 Wisconsin Act 26,
19 is amended to read:

20 66.1001 (2) (g) *Intergovernmental cooperation element.* A compilation of
21 objectives, policies, goals, maps, and programs for joint planning and decision
22 making with other jurisdictions, including school districts, drainage districts, and
23 adjacent local governmental units, for siting and building public facilities and
24 sharing public services. The element shall analyze the relationship of the local
25 governmental unit to school districts, drainage districts, and adjacent local

BILL

1 governmental units, and to the region, the state and other governmental units. The
2 element shall consider, to the greatest extent possible, the maps and plans of any
3 military base or installation, with at least 200 assigned military personnel or that
4 contains at least 2,000 acres, with which the local governmental unit shares common
5 territory. The element shall incorporate any plans or agreements to which the local
6 governmental unit is a party under s. 66.0301, 66.0307 or 66.0309. The element shall
7 identify existing or potential conflicts between the local governmental unit and other
8 governmental units that are specified in this paragraph and describe processes to
9 resolve such conflicts.

10 **SECTION 6.** 88.41 (5) of the statutes is created to read:

11 88.41 (5) Whenever a drainage board sends out an assessment for costs, as
12 described in this section, the board shall include a notice reminding the person
13 assessed of the requirement under s. 88.95.

14 **SECTION 7.** 88.95 of the statutes is created to read:

15 **88.95 Notification requirement to transfer land.** (1) All persons who
16 transfer land that is located within a district shall provide written notice to the
17 prospective buyer or transferee that the land is located within a drainage district and
18 is subject to assessments under this chapter for maintenance of the drains.

19 (2) Sections 709.02 (1) and 709.04 to 709.08, as they apply to the reporting
20 requirement under ch. 709 with respect to transfers under s. 709.01, apply to the
21 notice requirement under sub. (1) with respect to transfers under sub. (1).

22 **SECTION 8. Initial applicability.**

23 (1) The treatment of section 66.1001 (2) (g) of the statutes first applies to a city,
24 village, town, county, or regional planning commission that begins the process of
25 creating or amending a comprehensive plan on the effective date of this subsection.

BILL**SECTION 8**

1 (2) The treatment of sections 59.69 (5) (g), 60.61 (4) (f), and 62.23 (7) (d) 5. and
2 6. of the statutes first applies to a city, village, town, or county that begins the process
3 of creating or amending a zoning ordinance on the effective date of this subsection.

4 (#) ~~43~~ The treatment of section 88.41 (5) of the statutes first applies to an
5 assessment that is sent out on the effective date of this subsection.

6 (#) ~~44~~ The treatment of section 88.95 of the statutes first applies to an accepted
7 offer that is received by a prospective buyer on the effective date of this subsection.

8 (END)

D - vote

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0627/ins
PJK:.....

INSERT A

not
A prospective buyer may rescind the contract without penalty or loss of earnest money within two days after receiving the separate notice or if the transferor does not provide the separate notice within ten days after an offer to purchase is accepted. The bill also requires a drainage board, when issuing an assessment, *AS*

(END OF INSERT A)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0627/1dn

PJK:.....

date

jld

There appears to be a logical problem with applying the requirements under [✓]ch. 709 to the notice requirement under this draft. Under ch. 709, every seller of property must furnish a real estate condition report, [✓]so it is easy for a prospective buyer to know when they do not get one and to rescind the contract if they do not. Under this draft, however, a seller must furnish the notice only if the property is in a drainage district. [✓]A prospective buyer may not know that in advance, so if they do not get the notice, they will not know that they should have received one and that they may rescind the contract. [✓]

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0627/1dn
PJK:jld:sh

November 3, 2006

There appears to be a logical problem with applying the requirements under ch. 709 to the notice requirement under this draft. Under ch. 709, every seller of property must furnish a real estate condition report, so it is easy for a prospective buyer to know when they do not get one and to rescind the contract if they do not. Under this draft, however, a seller must furnish the notice only if the property is in a drainage district. A prospective buyer may not know that in advance, so if they do not get the notice, they will not know that they should have received one and that they may rescind the contract.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

Basford, Sarah

From: Griffiths, Terri
Sent: Wednesday, January 31, 2007 11:55 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-0627/1 Topic: Drainage district landowner must notify potential buyer that land is in a drainage district.

Please Jacket LRB 07-0627/1 for the ASSEMBLY.